

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

STEVEN AUBREY BURNETTE

**CIVIL DOCKET NO. 1:05-cv-1804
and NO. 1:06-cv-1396**

-vs-

JUDGE DRELL

BUREAU OF PRISONS, et al.

MAGISTRATE JUDGE KIRK

J U D G M E N T

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 122) concerning Defendants' motions to dismiss (Doc. No. 44 in case #06-1396 and Doc. No. 64 in case #05-1804). After independent (*de novo*) review of the record, including the Defendants' written objections (docketed in Cause No. 06-1396, Doc. 108), and concurring with the Magistrate Judge's findings under the applicable law, this Court adopts the Magistrate Judge's Report and Recommendation subject only to the modifications outlined herein.

The Report and Recommendation appears not to have noted a document indicating that the United States Penitentiary-Atwater's rejection of carbon paper documents did not occur until the April 2008 attempts to serve the United States. Also, the original motion by the Government to dismiss appears to have been only filed in and

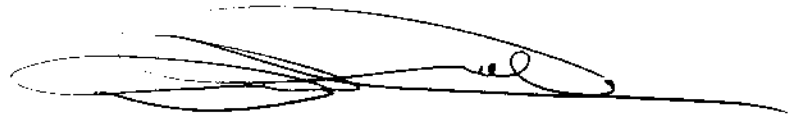
applicable to suit #06-1396. The motion was docketed in both cases, however, and the Government did not specifically limit the motion to #06-1396. The arguments made apply equally to both cases in any event, and this Ruling applies in both cases, now unconsolidated. Accordingly, this judgment shall be filed in both.

Accordingly, as to the grounds for dismissal raised in Defendants' motions to dismiss (Doc. No. 44 in case #06-1396 and Doc. No. 64 in case #05-1804),

IT IS ORDERED that Defendants' motions to dismiss are GRANTED as to all claims against the Bureau of Prisons in both cases, and those claims are DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that Defendants' motions to dismiss are DENIED as to all claims against the United States in both cases.

SIGNED on this 26th day of March 2009 at Alexandria, Louisiana.

A handwritten signature in black ink, appearing to read 'D. Drell', is written over a horizontal line.

DEE D. DRELL
UNITED STATES DISTRICT JUDGE